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<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	09/885,856	DENNIS ET AL.	
	Examiner	Art Unit	
	Michael J. Hayes	3767	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to rice received 12/09/05.
2. ☒ The allowed claim(s) is/are 32-38 and 43-49.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                  |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>attached</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                         |
|   | 9. <input type="checkbox"/> Other _____.   |

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. John Hilton on 6 February 2006.

The application has been amended as follows:

IN THE CLAIMS:

Amend claims 32, 34, 36, 37, 43, 45, 47, and 48 as per attached sheet of replacement claims.

### ***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance: Claims 32-38 and 43-49 are allowed because the recited combination of elements of a surgical seal assembly for mounting to a cannula for insertioin of a surgical instrucment including an upper body portion having a proximal wall at the seal assembly proximal end, lower body portion, cylindrical wall protector, and unitary seal valve having a upper seal wall, where the wall protector is integrally formed with and extends from the upper body portion exterior surface at the seal assembly proximal end and overlappingly extends of the upper seal wall without contacting the seal wall with no structure between the upper seal wall and overlapping wall protector, and with the seal valve mounted at the interior surface of the seal assembly proximal wall.

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The allowed claims distinguish over prior art 5,603,702; 5,720,730; and 5,545,142. The prior art do not show the overlapping cylindrical wall protector separated from in noncontacting arrangement with the upper seal wall with no intervening structure and the seal valve mounted at the interior surface of the seal assembly proximal wall as recited in the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Hayes at (571) 272-4959. The examiner can usually be reached Monday -Thursday, 7:00-4:30, and on alternate Fridays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons, can be contacted at (571) 272-4965. The fax number for submitting official papers is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mjh  
6 February 2006



**MICHAEL J. HAYES**  
**PRIMARY EXAMINER**

## AMENDMENT TO CLAIMS

32. (Currently Amended) A surgical instrument seal assembly for mounting to a cannula for insertion of a surgical instrument, the seal assembly comprising:

an upper body portion having a proximal end wall with an upper exterior surface arranged at a proximal end that defines a throughbore extending completely through the seal assembly and a interior surface;

a cylindrical wall protector integrally formed with the upper exterior surface at the throughbore to project inwardly into an interior portion of said upper body portion at the throughbore;

a lower body portion projecting below the upper body portion wherein said lower body portion defines a cannula receiving opening adapted to mount the seal assembly on the cannula; and

a unitary valve seal including:

an upper seal portion having a upper seal wall and a mounting portion rigidly mounted at the interior surface of the proximal end wall in said upper body portion adjacent an interior portion of said upper body portion, the interior portion opposing the upper surface, said upper seal portion being mounted about the throughbore, said cylindrical wall protector located between the throughbore and the upper seal wall overlapping in a longitudinal direction, and separated from in noncontacting arrangement with said upper seal wall with no intervening structure and extending from said seal assembly proximal end and substantially into said upper seal portion; and

a lower seal portion extending from said upper seal portion, said lower seal portion being adapted to seal around the surgical instrument.

34. (Currently Amended) The surgical instrument seal assembly of claim 32 33, wherein the inner support member engages with a shoulder formed on said lower body portion.

36. (Currently Amended) The surgical instrument seal assembly of claim 35, further comprising a shoulder extending from said transition wall into an interior portion of said lower body portion, said shoulder of said transition wall mating with ~~a shoulder of~~ a inner support member.

37. (Currently Amended) The surgical instrument seal assembly of claim 36, further comprising a seal positioned between ~~the shoulder of~~ the inner support member and the shoulder of the transition wall.

43. (Currently Amended) A surgical instrument seal assembly for mounting to a cannula for insertion of a surgical instrument, the seal assembly comprising:

- an upper body portion having a proximal end wall with an upper exterior surface arranged at a proximal end that defines a throughbore extending completely through the seal assembly and a interior surface;

- a cylindrical wall protector integrally formed with the upper exterior surface at the throughbore having a substantially tubular construction that projects inwardly into an interior portion of said upper body portion at the throughbore;

- a lower body portion projecting below the upper body portion wherein said lower body portion defines a cannula connection that connects the seal assembly to the cannula; and

- a unitary valve seal including:

- an upper seal portion having a upper seal wall and a mounting portion rigidly mounted at the interior surface of the proximal end wall in said upper body portion adjacent an interior portion of said upper body portion, the interior portion opposing the upper surface, said upper seal portion being mounted about the throughbore, said

cylindrical wall protector located between the throughbore and the upper seal wall overlapping in a longitudinal direction, and separated from in noncontacting arrangement with said upper seal wall with no intervening structure and extending from said seal assembly proximal end and substantially into said upper seal portion; and

a lower seal portion extending from said upper seal portion, said lower seal portion being adapted to seal around the surgical instrument.

45. (Currently Amended) The surgical instrument seal assembly of claim 43 44, wherein the inner support member engages with said lower body portion.

47. (Currently Amended) The surgical instrument seal assembly of claim 46, further comprising a shoulder extending from said transition wall into an interior portion of said lower body portion, said shoulder of said transition wall mating with ~~a shoulder of an~~ inner support member.

48. (Currently Amended) The surgical instrument seal assembly of claim 47, further comprising a seal positioned between ~~the shoulder of~~ the inner support member and the shoulder of said transition wall.